

KLEINMANN DECLARATION

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK**

**SECURITIES AND EXCHANGE
COMMISSION,**

Plaintiff,

v.

**RICHARD SCHUELER aka RICHARD HEART,
HEX, PULSECHAIN, and PULSEX**

Defendants.

Case No. 1:23-cv-05749-CBA-PK

DECLARATION OF DEREK KLEINMANN

Pursuant to 28 U.S.C. § 1746, the undersigned declares as follows:

1. I am an Assistant Director at the Securities and Exchange Commission (“SEC” or “Commission”), in the Enforcement Division of the Fort Worth Regional Office. I make this declaration in support of the SEC’s opposition to Defendants’ motion to dismiss the SEC’s complaint.

2. I have been employed by the Commission since 2019. Prior to joining the Commission, I was a Supervisory Special Agent with the Federal Bureau of Investigation, and a Special Assistant United States Attorney in the Northern District of Ohio. Prior to that I was an Associate Managing Director for a publicly traded financial institution. I am a member in good standing of the State Bar of Kansas and have been licensed since 2006.

3. My official duties with the Commission include participating in fact-finding inquiries and investigations to determine whether the federal securities laws have been violated and assisting in the Commission’s litigation of securities laws violations. This includes: (1) interviewing witnesses and taking sworn investigative testimony; (2) requesting and subpoenaing

documents from various individuals and entities; (3) reviewing and analyzing records of various entities and individuals; and (4) analyzing legal issues.

4. As part of my official duties, I have reviewed public statements of Richard Schueler, aka Richard Heart (“Heart”), in connection with the Commission’s investigation of Heart, Hex, PulseChain, and PulseX.

5. In March 2022, Heart appeared virtually by YouTube before a live audience in Las Vegas, Nevada at an event known as a Hex Conference, which was held between March 6-9, 2022 where he promoted the Hex, PulseChain and PulseX offerings. The video recording of Richard Heart’s appearance is private and not available to the SEC. That video recording is located at <https://www.youtube.com/watch?v=E-tp8q0YlbQ&t=19780s>. A two hour and thirty-seven-minute recording of this broadcast titled, **Vegas HEX conference with Richard Heart made possible by Mati Allin**, is available at Apple podcasts. Heart spoke for approximately 23 minutes and then engaged in a question-and-answer session with the live audience until the end of the nearly 2.5-hour session. Heart made the following statements during this appearance before a live audience in Las Vegas, identified by timestamps from the available audio recording. A true and correct copy of relevant pages from the certified transcript of this March 2022 audio recording is attached as Exhibit A to this Declaration.

- 1:03 - “It’s much nicer to be on stage and talking when the Hex price is up 30 percent for the day.” Ex. A, p. 3.
- 40:30: “So in cryptocurrencies that have product market fit, such as Hex, and I believe PulseChain and PulseX...Hex has 40,000 users in the chat and PulseChain has like 60 or 70,000. It’s crazy. Like there’s a lot of traction, a lot of demand. And so if you get people to delay gratification and spend more time in the market instead of trying to time the market, that is tried and true investment strategy.” *Id.* at p. 53.
- 55:00: “Hex actually has the highest or nearly the highest volume on decentralized exchanges, except for Bitcoin, stablecoins, and Ethereum, except for those three

things. But among other coins that aren't Bitcoin, Ethereum, or stablecoins, it has giant volume, compared to the other coins." *Id.* at p. 54.

- At 55:55, a member of the live audience said to Heart: "We really want to get Hex viral so we can pump our value." At 56:30, during this same exchange, the same audience member asked Heart: "Who do I write it to?" Heart responded: "You know where all the rich people live because they all live in the same place and have a zip code and then you can then just literally hand out flyers or pay the Postal Service to do it for you. It is an effective marketing method that gets around the gatekeeping trash of the world." *Id.* at pp. 55-56.
- At 59:00, Heart said, "Some of you guys did a million percent returns. You can afford to promote....This may enhance the value of something you care about." Ex. A, pp. 58-59.
- 1:03:30: "The people that made the most money on Hex sat through the most brutal dips....They either bought or sat through the most brutal dips. The more brutal dips you sat through, the more ROI [return on investment] you saw." *Id.* at p. 64.
- At 1:04:20, a member of the audience said to Heart, "I'm trying to pump our bags and raise awareness." Heart responded at 1:04:36, suggesting that the audience member use different language: "We have to work on that – transformational vocabulary. We have to find – I'm trying to enhance the value of our investments or something. Like pump our bags sounds so trash." *Id.* at pp. 65-66.

6. On August 15, 2022, Richard Heart appeared in-person, along with two other guests, in a studio in Miami, Florida, where he was interviewed for the "Fresh & Fit Podcast" by two U.S.-based interviewers in which he discussed Hex, PulseChain, and PulseX. The video recording of this live, in-person appearance is available at the following url: <https://www.youtube.com/watch?v=P9JiRZXFtU8>. Heart made the following statements during this interview, identified by timestamps from this YouTube video recording. A true and correct copy of relevant pages from the certified transcript of this August 15, 2022 video recording is attached as Exhibit B to this Declaration.

- 3:10: "Hey, internet, how's it going out there? I hope you're not as sweaty and hot and bothered as us down here in Miami. It's hot down here, man. Too hot. I'm from around here. I'm from Fort Lauderdale originally. I lived here 20 years. I found a better place in Europe. Yeah, man. I'm Richard Heart. I own the world's largest

diamond. I invented a cryptocurrency¹; it went up in price a million percent, before staking, more if you staked it.” Ex. B, p. 5.

- 3:34 - Interviewer response: “Come to HEX, man. Yeah.” *Id.*
- 3:35 - Heart: “Yeah, HEX.com. And then I got \$10 million in wristwatches, the world's most expensive Rolexes ever made. Million dollar, thousand horsepower Ferrari. I've got like \$3 million in cars.” *Id.*
- 8:25: “So, my mom's in South Carolina. I went up there, installed some bidets. I put it on Instagram, if you want to watch me install a bidet from scratch, 30 minutes.” *Id.* at p. 11.
- 16:35: “You got the most A Class companies in the S&P 500. If you go back 16 years, you get a 3x your money. You 3x your money or 2x your money in like, like 15 years. I think 2x in 15 years if what you would have got. That's it. S&P 500 did a 2x in 15 years. Hex did a 10,000x in 2 years, literally.” Ex. B, p. 21.
- 18:35: “So you know, there's things that work, there's things that don't work. Buying and holding, something has product market fit like Bitcoin, Ethereum, HEX. HEX is around half as long as Ethereum now. Ethereum is 2,500 days. HEX is 1,000 days old. If we -- we're almost as old as Ethereum. And it catches up, the way the math works, as time goes it'll be easier for us to get a larger percentage, man.” *Id.* at p. 23.
- 29:08: You're all probably wondering what Pulse Chain is, huh?...If you got Ethereum and the coins out there for Ethereum itself, you get a free copy of everything on a new chain. You ain't got to do nothing. It's free. With lower fees, higher through-put, doesn't blow up the environment, doesn't have any inflation. It burns 25 percent of all the fees. It just keeps getting more and more rare.” *Id.* at pp. 36-37.
- 01:03:35: “Hex did -, well actually Hex didn't do better, but staking did better. But we only did a 10,000x so far; we're only 1,000 days old.” *Id.* at p. 79.
- 02:13:05: “Yeah, and then HEX.com, 10,000x performance, two years, perfect flawless thousand day uptime. World's first time deposit on the blockchain. And we've got PulseChain.com, world's largest free air drop. And we've got RichardHeart.com, you know, world's biggest diamond. \$10 million of watches. \$3 million of cars.” Ex. B, pp. 163-164.

7. During this interview in the Miami studio, Heart's interviewers made statements

¹ Although the transcription describes Heart as saying “I've been in cryptocurrency,” the undersigned believes “I invented a cryptocurrency” to be the more accurate rendering of Heart's recorded statement.

or otherwise read statements on-air that were made by audience members in the livestream chat room during the course of the interview. These include the following statements:

- 29:00: “Go hit the Pulse Chain launch button Richard Heart and let’s go to the moon” *Id.* at p. 36.
- 29:32: “So everyone that’s in Hex, for the most part, makes money, because they spend money like crazy, man.” *Id.* at p. 37.
- 29:40: “Richard is the GOAT. He gave me the opportunity to create a generational wealth” *Id.*
- 45:52: “HEX is better than Bitcoin and PulseChain will make more millionaire/billionaires than Ethereum and others before it.” Ex. B, p. 57.

8. On September 7, 2022, Richard Heart appeared virtually by YouTube livestream before a live audience in Las Vegas, Nevada at an event promoting the PulseChain offering known as “Pulsecon.” Heart’s anticipated appearance at this in-person event in Las Vegas was promoted in a YouTube video in which it was announced that approximately 3,000 people would attend this in-person event in Las Vegas. The promotional video is available at the following url: <https://www.youtube.com/watch?v=uNbKqX0bMo0>. A true and correct copy of the certified transcript of this promotional video recording is attached as Exhibit C to this Declaration. In this promotional video, in response to the invitation to Heart to speak to the live audience about PulseChain, Heart stated, “I like when people promote stuff that I invented.” Ex. C, p. 2.

9. A video of Heart’s appearance on September 7, 2022, before the live audience in Las Vegas is available at <https://www.youtube.com/watch?v=HqDpiInlkvU>. During this appearance, while wearing a pulsechain.com shirt, Heart made the following statements identified by timestamps from this YouTube livestream video. A true and correct copy of relevant pages from the certified transcript of this September 7, 2022 video recording is attached as Exhibit D to this Declaration.

- 1:15 – 1:32: “I’ve been talking to devs (developers) a lot, recently, and I guess the next thing you’re going to see released on PulseX is going to be the limit orders. Works fine in the private test net and they are just going to push it to the main branch and like be able to test that soon.” *Ex. D*, p. 2.
- 1:32 – 1:55: “The big thing that we’re waiting on is consensus improvements. So because my devs (developers) are geniuses; they find bugs other people don’t know about. So they know about bugs and BSC that nobody else knows about. . . . before we launch mainnet, we want everything to be right.” *Id.* at pp. 2-3.
- 3:45: “All those guys are losing money left and right; all the people who listened to me, well they seem to have done much better.” *Id.* at p. 4.
- 4:45 – 5:00: “If you’ve used the (PulseChain) test net, which I consider to be the best game on the blockchain – hey you like blockchain games? Guess what guys? You get copies of all your coins on the PulseChain.com testnet, go try them out right now.” *Id.* at p. 5
- At 5:05: “Everything else has been real good. Like, PulseX, done tons of trades, tons of people doing buy and burns, you know. I’ve heard nothing but good things about the testnet.” *Ex. D*, p. 5.
- 5:37 – 6:00: “In my mind, the two things people care about most in PulseChain are more coins, more throughput, lower fees. That’s the primary value statement. And Eth 2.0, with this merge, doesn’t give you new coins, doesn’t give you more fees, doesn’t give you higher throughput. And so our value proposition is totally clean. I like it, everything is good.” *Id.* at pp. 5-6.
- 6:33: “And so I wouldn’t be surprised if at some point Hex started doing the same things that it used to do, which is just overperforming like crazy. We’ll see. I don’t have crystal ball, this is not financial advice....” *Id.* at p. 6.
- 13:15 – 13:41: “So being able to have so many people – like, perhaps the people at this conference – buying at rates that are, you know, 10 times cheaper – like, for instance, you know, Hex dipped like 95 percent. Well, golly, that’s a good dip. I mean, you could – get if you buy a 95 percent dip, you’re getting 20 times the stuff for the same economic energy that a person didn’t buy previously did. So, in theory, that greatly reduces your risk.” *Id.* at p. 11.
- 14:25: Regarding new features for Hex, “There was a U.S. credit card onramp available for Hex which would be buythehex.com.” *Ex. D*, p. 12.
- 15:18 – 15:40: “So let’s see what next year might look like. PulseChain, PulseX, Hex on the Ethereum network, Hex on the Pulse network. Documentary out. Incentive token out. Tell us more about the incentive token. I don’t know, people probably provide liquidity to it, and that’ll be its claim to fame.” *Id.* at p. 13.

- 15:50: “The wallet is coming along, Mr. Wallet Developer is still building out the wallet, so that’s coming along.” *Id.*

10. After Heart spoke for approximately 15 minutes, he interacted with the audience and conference hosts in a question-and-answer session which lasted approximately one hour, beginning at the 16:00 minute mark of the video recording. During this session, Heart made the following statements:

- 21:30: “And my job is to free people. And to be free, you need money, period, which is why I invent monies, which is why I give out free coins. So, you know, I do very good outrage marketing. It gets good engagement, particularly engagement from people who don’t already know me. And I know that that’s what works for these newspapers, because that’s the only reason they cover me.” *Id.* at pp. 17-18.
- 28:00: “You know, the stuff that we are doing is awesome, and has been awesome. A thousand days of perfect, flawless operation while everything around us got wrecked. A million percent price performance before staking, and it luckily dips once in a while and people get to participate at the dips.” Ex. D, p. 22.

11. After the complaint in this action was filed on July 31, 2023, at least ten United States investors have reported to the SEC that they invested in the Hex, PulseChain, and PulseX offerings.

12. At least one of these investors, who resides in California and invested in each of the three offerings, has specifically referenced that he learned of Heart and the three offerings through YouTube, Twitter, and Telegram.

13. Another investor, who resides in Ohio, invested in Hex and stated that he learned about Richard Heart on YouTube and Twitter.

I hereby declare, under penalty of perjury, that the foregoing is true and correct.

July 8, 2024

/s/ Derek Kleinmann
Derek Kleinmann